

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Roanoke Division**

JOSHUA LEE SMITH,)
Plaintiff,)
v.)
TWIN COUNTY REGIONAL HEALTHCARE,)
MARIBEL RODRIGUEZ-MARTINEZ, M.D.,)
LAURA B. LEONARD, R.N.,)
CRYSTAL N. COLEMAN, R.N.,)
TERESA L. WHITE, R.N.,)
and TWO UNNAMED NURSES, A and B;)
KARL R. HADE, EXECUTIVE SECRETARY OF)
THE SUPREME COURT OF VIRGINIA, in his)
official capacity,)
HON. JEFFREY L. WRIGHT, in his official)
capacity;)
CARROLL COUNTY SHERIFF KEVIN A.)
KEMP, in his official capacity, and DEPUTIES)
KEITH A. MUSSER,)
CHRISTOPHER R. MABRY,)
ANTHONY G. HORTON, and TWO UNNAMED)
DEPUTIES Y and Z,)
in their individual and official capacities;)
NEW RIVER VALLEY REGIONAL JAIL)
AUTHORITY, and)
MARY STEWART, JOLEN MABREY,)
ROBERTA WEBB, DEREK TRENAR, NIKOLAS)
MCGRADY, JUSTIN ARCHER, VERONICA)
LOOP, DEREK TOLBERT, BRIAN COTTS,)
MELISSA EDWARDS, JOHN MCNEELY,)
ASHLEY UMBERGER, SHAUN BENZEL, and)
BENJAMIN WATKINS, and THREE)
UNNAMED JAIL OFFICERS 1, 2, and 3,)
in their individual and official capacities;)
DOE OFFICERS 4 and 5;)

**Case No. 7:22-cv-00238
PLAINTIFF'S OPPOSITION TO
DEFENDANT KARL R. HADE'S
MOTION TO DISMISS**

and DOE individuals 6–10,
))
) Defendants.
)

Plaintiff requests that this Court deny as moot Defendant Karl R. Hade’s (“Hade”) Motion to Dismiss the Complaint. Defendant Hade filed his motion to dismiss under Federal Rule of Civil Procedure 12(b) on June 27, 2022, *see* Dkts.¹ 24–25, and Plaintiff filed his First Amended Complaint two days later, on June 29, 2022, *see* Dkt. 30; *see also* Fed. R. Civ. P. 15(a)(1)(B).

Plaintiff’s initial Complaint is no longer in effect, rendering Defendant Hade’s Motion to Dismiss moot. Plaintiff’s First Amended Complaint supersedes his initial Complaint. *See Young v. City of Mount Ranier*, 238 F.3d 567, 572 (4th Cir. 2001) (“As a general rule, an amended pleading ordinarily supersedes the original and renders it of no legal effect.”) (internal quotation marks omitted). The filing of an amended complaint thus moots any responsive pleadings or motions directed toward the previous complaint. *See, e.g., Tolley v. Wells Fargo Bank, N.A.*, No. 6:19-CV-00062, 2019 WL 7041514, at *2 (W.D. Va. Dec. 20, 2019) (denying motions to dismiss as moot after plaintiff filed a counterclaim recognized as an amended complaint); *Henderson v. White’s Truck Stop, Inc.*, No. 6:08-cv-00042, 2011 WL 1627120, at *1 (W.D. Va. April 29, 2011) (noting that original motion to dismiss was denied as moot after plaintiff filed an amended complaint); *see also, e.g., McRae v. Harrison*, No. 5:17-CV-23-H, 2018 WL 4345278, at *4 (E.D.N.C. Aug. 16, 2018), report and recommendation adopted, No. 5:17-CV-23-H, 2018 WL 4339362 (E.D.N.C. Sept. 11, 2018) (concluding, “[b]ecause [the] Defendant’s motion to dismiss [was] directed at Plaintiff’s original pleading, it is rendered moot and must, therefore, be dismissed”); *Pippett v. Waterford Dev., LLC*, 166 F. Supp. 2d 233, 236 (E.D. Pa. 2001) (“The

¹ “Dkt.” in this document refers to the docket entry number for this Court’s electronic filing system in *Smith v. Twin County Regional Healthcare, et al.*, No. 7:22-cv-00238 (W.D. Va. 2022).

filing of an amended complaint generally renders a pending motion to dismiss moot.”); *Onyiah v. St. Cloud State Univ.*, 655 F. Supp. 2d 948, 958 (D. Minn. 2009) (“[As] a general proposition, if a defendant files a Motion to Dismiss, and the plaintiff later files an Amended Complaint, the amended pleading renders the defendant's Motion to Dismiss moot.”).

Defendant Hade will have a renewed opportunity to file a Motion to Dismiss the First Amended Complaint, if he so wishes. *See Fed. R. Civ. P. 15(a)(3)*. Plaintiff respectfully requests that this Court deny the pending Motion to Dismiss, Dkt. 24, as moot.

Dated: July 8, 2022

Respectfully submitted,

/s/Aderson Francois
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Lucia Goin (D.C. Bar. No. 1739389)
(*pro hac vice*)
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Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2022, I filed a copy of the foregoing document with the Clerk of the Court using the CM/ECF system, which will provide copies to all counsel of record who have entered appearances. As all parties have not yet been served with process, service was not completed on all parties.

/s/ Aderson Francois
Counsel for Plaintiff